

2. On November 16, 2018, Plaintiff filed a separate lawsuit against Checkr, Inc., the consumer reporting agency that prepared a consumer report about him and sold it to Checkr. (Case No. 18-cv-10741-UA). That complaint alleges multiple class claims against Checkr under the Fair Credit Reporting Act and the New York Fair Credit Reporting Act, as well as an individual claim under the NY FCRA.

3. On December 20, 2018, MakeSpace filed a letter requesting a pre-motion conference with the Court. (Dkt. 17). In its letter MakeSpace argues that the two actions should be consolidated under Rule 42(a), or alternatively that the Court should dismiss Plaintiff's claims against MakeSpace for failure to join a required party under Rule 12(b)(7) and 19(a).

4. Plaintiff filed his Response to MakeSpace's letter on December 26, 2018. (Dkt. 18). In his response Plaintiff explained that his claims against MakeSpace and Checkr are separate and independent, and that Checkr is not a required party to his lawsuit against MakeSpace. Nevertheless, for the sake of judicial economy, Plaintiff stated that he is amenable to consolidating the two actions for discovery purposes.

5. On January 31, 2019, the Court held a Pre-Motion Conference with the Parties. At the conference the Parties agreed to further confer about consolidating the two actions and to file a Joint Status Report with the Court on or before February 21, 2019 on that issue. (Dkt. 20).

6. Plaintiff, MakeSpace, and Checkr have conferred regarding consolidation of the two actions. Checkr does not consent to consolidating these two cases, as it believes the claims against Checkr and MakeSpace are substantively and factually distinct. In particular, Plaintiff's claims against Checkr focus on Checkr's procedures, as a consumer reporting agency, for maintaining and preparing consumer reports. Separately, Plaintiff's claims against MakeSpace involve MakeSpace's procedures, as an employer, for its use of consumer reports in making employment decisions. As a result, Checkr does not foresee these actions having sufficient overlap to warrant consolidation.

7. In light of Checkr's position, Plaintiff and MakeSpace have conferred in good faith over several calls about MakeSpace's pending letter motion to dismiss or consolidate this

action. MakeSpace has decided to withdraw its pending letter motion and to proceed with litigating this action separately from Plaintiff's lawsuit against Checkr.

8. Additionally Plaintiff and MakeSpace have conferred about MakeSpace's Answer deadline, and respectfully propose that MakeSpace will file its Answer by March 14, 2019 or on such date as the Court may deem proper.

DATE: February 21, 2019

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